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Attorneys for Plaintiff
SCOTTSDALE INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SCOTTSDALE INSURANCE) CIVIL NO. CV04 00550 HG/BMK
COMPANY,) (Declaratory Relief)
)
 Plaintiff,) PLAINTIFF SCOTTSDALE
) INSURANCE COMPANY'S
) MOTION FOR PARTIAL
 vs.) SUMMARY JUDGMENT RE:
) REIMBURSEMENT CLAIM;

SULLIVAN PROPERTIES, INC.;)	MEMORANDUM IN SUPPORT OF
ROBERT B. SULLIVAN; MAUI)	MOTION; CERTIFICATE OF
LAND & PINEAPPLE COMPANY,)	SERVICE
INC.; AND KAPALUA LAND)	
COMPANY, LTD.,)	
)	No trial date set
Defendants.)	
)	
)	

[2004432/#269941]

**PLAINTIFF SCOTTSDALE INSURANCE COMPANY'S MOTION FOR
PARTIAL SUMMARY JUDGMENT RE: REIMBURSEMENT CLAIM**

Plaintiff SCOTTSDALE INSURANCE COMPANY (hereinafter referred to as "Scottsdale"), by and through its attorneys, Ayabe, Chong, Nishimoto, Sia & Nakamura and Selman • Breitman LLP, hereby moves this Honorable Court for 1) an order granting partial summary judgment in its favor and against Defendants SULLIVAN PROPERTIES, INC. and ROBERT B. SULLIVAN (hereinafter collectively referred to as "Defendants" and individually as "Sullivan Properties" and "Robert Sullivan," respectively) with respect to the Fourth Cause of Action within Scottsdale's Complaint for Declaratory Relief Filed on 9/9/04, pertaining to and regarding Scottsdale's claim for reimbursement of attorney's fees and costs incurred in the defense of the Defendants in the underlying action identified as *Maui Land & Pineapple Company, Inc. and Kapalua Land Company v. Sullivan Properties, Inc., formerly known as Sullivan & Conlen, Inc., and Robert B. Sullivan*, Civil No. CV04-00358 HG/BMK in the

United States District Court, District of Hawaii (hereinafter referred to as “the underlying action”).

This Motion follows this Court’s Order Granting Scottsdale’s Motion for Partial Summary Judgment; and Denying Sullivan Properties’ Cross-Motion for Summary Judgment; and Denying Robert Sullivan’s Counter-Motion for Summary Judgment (said Order filed on 2/28/06) in which the Court held that Scottsdale did not owe a duty to defend the Defendants in the underlying action as a matter of law, and that Scottsdale was entitled to reimbursement of the attorney’s fees and costs it expended to defend the Defendants in the underlying action. Further, this Motion follows this Court’s direction to Scottsdale to submit documentation establishing the amount of such attorney’s fees and costs. Pursuant to this Court’s aforementioned Order, Scottsdale submits with this Motion that it is entitled to a total of **\$147,819.74** in reimbursement from the Defendants.

This Motion is being filed pursuant to Rule 56 of the Federal Rules of Civil Procedure, Local Rules 7.1, 7.2, 7.5, and 56.1 of the Local Rules for the U.S. District Court for the District of Hawaii, and is based on 1) this Court’s Order Granting Scottsdale’s Motion for Partial Summary Judgment; and Denying Sullivan Properties’ Cross-Motion for Summary Judgment; and Denying Robert Sullivan’s Counter-Motion for Summary Judgment (said Order filed on 2/28/06); 2) the Memorandum in Support of Motion, 3) the Separate and Concise Statement of

Facts filed concurrently herewith, with the Declaration of Susan C. Coltrara and the exhibits attached thereto, and 4) the records and files herein.

DATED: Honolulu, Hawaii, December 1, 2006.

/s/ Jeffrey H. K. Sia

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